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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/552,742	03/31/2006	Toru Matsuki	016778-0501	2127
22428 7590 07/31/2009 FOLEY AND LARDNER LLP SUITE 500 3000 K STREET NW WASHINGTON, DC 20007				
EXAMINER				
CASCIA, FRED A				
ART UNIT		PAPER NUMBER		
2617				
MAIL DATE		DELIVERY MODE		
07/31/2009		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/552,742

Applicant(s)

MATSUKI, TORU

Examiner

FRED A. CASCA

Art Unit

2617

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 May 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-9 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-9 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SF/ICE)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed May 20 2009 has been entered.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claim 1-9 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

Independent claims 1 and 4 have been amended to contain new matter. The phrase “comparing the calculated difference with a predetermined threshold” added to independent claims 1 and 4 has not been described in the specification. A similar limitation in new claim 7, “difference comparing part configured to compare the calculated difference with a predetermined threshold,” has not been found in the specification.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chang et al (US 2006/0094432 A1) in view of Leonard (US 2006/0068826 A1).

Referring to claim 1, Chang discloses a method for testing a handover function between cells covered by the base station radio apparatuses in a mobile communication system (abstract and Fig. 1), the mobile communication system at the least including a mobile station (Fig. 1), base station radio apparatuses that perform communication with the mobile station and a radio base station control apparatus that controls transmission powers for the base station radio apparatuses (Fig. 1), wherein the method comprising:

a step of calculating a difference between levels of reception fields for the base station radio apparatuses that cover the cells for which the handover test of the mobile terminal is to be performed (Paragraph 16 and 38, “measuring signal strength of signals received by a mobile station from an active base station and comparing the measured signal strength of the active base station with a first threshold value”); the difference between the levels of the reception fields of which is equal to or smaller than the threshold value (Par. 37, “compares the measured signal strength power P(A) of the active base station with a plurality of threshold values”) and a step of

performing the handover function test between the cells covered by the base station radio apparatuses (Par. 22, 37, “determining if the mobile station needs to hand off to another base station”).

Chang does not specifically disclose controlling transmission powers of the base station radio apparatuses so that a difference is equal to or smaller than a predetermined threshold value in the format claimed.

Leonard discloses a wireless network service using an initial threshold to determine whether a signal received from a cellular device is of sufficient strength to warrant further processing, implementing a power controller of a base station, where the power controller includes an outer loop power control and an inner loop power control, and a outer loop power control determining the strength of the received signal and comparing it to an different threshold values (abstract and paragraphs 8-9, 24 and 27, “wireless network service utilizes an initial threshold to determine whether a signal received from a cellular device is of sufficient strength”, “a power controller of a base station, where the power controller includes an outer loop power control and an inner loop power control”, “ The outer loop power control determines the strength of the received signal and compares it to an initial threshold”).

It would have been obvious to one of the ordinary skill in the art at the time of invention to modify the method of Chang by incorporating the teachings of Leonard in the format claimed, for the purpose of providing an efficient handover method.

Chang does not specifically disclose receiving a plurality of reception power levels measured by the mobile station, wherein each of the plurality of reception powers levels is

associated with a different one of the plurality of base station radio apparatuses (col. 3, lines 19-25); and the that the calculating of the difference is the difference between two of the of the plurality of reception power levels for two of the plurality of base stations, and that comparing is the comparing of calculated difference with a predetermined threshold values in the format claimed.

Chung discloses receiving a plurality of reception power levels measured by the mobile station, wherein each of the plurality of reception powers levels is associated with a different one of the plurality of base station radio apparatuses (col. 3, lines 19-25) and calculating the difference between two of the of the plurality of reception power levels (abstract, lines 1-6), and comparing the calculated difference with a predetermined threshold values (abstract, lines 6-17).

It would have been obvious to a person of ordinary skill in the art at the time of invention to modify the above combination in the format claimed, for the purpose of providing an efficient handoff system.

Referring to claim 2, the combination of Chang/Leonard/Chung discloses a method according to claim 1, and further disclose the of process of controlling transmission power of one of the two of the plurality of base station radio apparatuses comprises controlling the transmission power of the base station radio apparatus which has the higher received reception power level (Chang, paragraphs 39, "CDMA," note that in CDMA power control in the manner claimed is inherent).

Referring to claim 3, the combination of Chang/Leonard/Chung disclose a method according to claim 1 and further disclose if the calculated difference is equal to or less than the

predetermined threshold: performing a handover function test between cells covered by the two of the plurality of base station radio apparatuses (Chung, abstract) without controlling transmission power of one of the two of the plurality of base station radio apparatuses (Chang, Par. 39, "CDMA", note that in CDMA power control system, the powers of base stations higher than a threshold is reduced, but powers of base station less than the threshold is not reduced. A handover, at the same time, could happen while power adjustments are taken place in the CDMA systems).

It would have been obvious to a person of ordinary skill in the art at the time of invention to modify the above combination in the format claimed for the purpose of providing an efficient communication system.

Claims 4-6 recite features analogous to the features of claims 1-3 (as rejected above). Thus the combination of Chang/Leonard/Chung discloses all elements of claims 4-6.

Claims 7-9 are rejected for the same arguments that were made in the rejection of claims 1-3.

Response to Arguments

5. Applicant's arguments with respect to claims 1-9 have been considered but they are moot in view of new grounds of rejection.

Conclusion

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Fred A. Casca whose telephone number is (571) 272-7918. The examiner can normally be reached on Monday through Friday from 9 to 5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Paul Harper, can be reached at (571) 272-7605. The fax number for the organization where this application or proceeding is assigned is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/VINCENT P. HARPER/

Supervisory Patent Examiner, Art Unit 2617